



PATENT
450100-02714

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Makoto Korehisa, et al.
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For : BROADCAST PROGRAM INFORMATION PROCESSING APPARATUS
Art Unit : 2623
Examiner : Huynh, Son P.
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop Appeal Brief
Commissioner For Trademarks
P.O. Box 1451
Alexandria, VA 22313-1450

Sir:

Applicants request review of the Final Rejection dated July 21, 2006 in the above-captioned application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. Please consider the reasons stated herein.

REASONS FOR REQUEST

Claims 2 and 12-19 were rejected under 35 U.S.C. §112, first paragraph.

Claims 2, 12-15, and 18-19 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,536,041 to Knudson et al. (hereinafter, merely “Knudson”) in view of U.S. Patent No. 6,583,825 to Yuen et al. (hereinafter, merely “Yuen”) in view of U.S. Patent No. 5,920,700 to Gordon et al. (hereinafter, merely “Gordon”).

Claims 16-17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Knudson in view of Yuen and Gordon and further in view of U.S. Patent No. 5,121,430 to Ganzer et al. (hereinafter, merely “Ganzer”).

Claim 2 recites, *inter alia*:

“An information processing apparatus comprising:

...one or more terminal devices, coupled to one or more of the plurality of program information receiving apparatus by second means for downloading; and

a random number generator for generating a random time;

wherein the first means for downloading of each of said program information receiving apparatuses has a table in which access times to said data server are set for each region, and downloads said program information from said data server at a determined time, set by said table,

wherein the random time is used to modify the determined time...”
(emphasis added)

ARGUMENTS

The §112 Rejections Should Be Withdrawn Because The Specification Sufficient Written Description Of The Claimed Recitation

Claims 2 and 12-19 were rejected under 35 U.S.C. §112, first paragraph, for allegedly not describing the recitation “wherein the random time is used to modify the determined time.” However, it is clear from the Specification on page 9 that the random time is used to modify the determined time in order to randomly distribute the load on the server. The random number generator (207) is disclosed in Figures 1 and 5, and described on pages 7-10. Additionally, the Abstract states in line 11 that “a random timing [is] generated based on a preset time.” This provides sufficient written description of the claimed recitation. Accordingly, Applicants respectfully request that the rejection of the claims under 35 U.S.C. §112, first paragraph, be withdrawn.

Furthermore, The Office Action contends that Applicants’ argument regarding the Specification on page 9, Figures 1 and 5, described on pages 7-10 which illustrate other inventions is improper. Applicants respectfully traverse the Office Action contention that the argument regarding the Specification on page 9, figures 1 and 5 is improper. Applicants submit that the recitation of subject matter relating to a random number generator is merely subject matter disclosed in the original Specification, which further describes the invention. Additional support of Figures 1 and 5, are provided to support the disclosure of the claimed subject matter and provide a reference for understanding the incorporated attributes of the claimed invention. Furthermore, Applicants respectfully submit that the claimed recitations have been under examination already and reviewed by the Examiner previously, which has been admitted as subject matter of the claimed invention.

**The §103 Rejections Should be Withdrawn Because the
Cited References Do Not Disclose Each and Every Element
Recited in the Claims**

It is respectfully submitted that the applied combination of Knudson, Yuen and Gordon does not teach the above-recited features of independent claim 2. Specifically, the Office Action concedes that “However, Knudson in view of Yuen does not specifically disclose random time is used to modify the determined time.” (See Office Action page 8) Applicants respectfully disagree with the assertion that Gordon provides the disclosure missing from Knudson and Yuen.

The Office Action cites column 7, line 52 - column 8, line 4 of Gordon, which recites “...the asset management system of the invention might automatically assign priority of movies and music to the distribution system between the hours of 8:00 PM and 10:00 PM over news assets...priority shifts in different areas of the network served by the operations center may be appropriate.”

Applicants submit that assigning priority of movies and music to the distribution system between the hours of 8:00 PM and 10:00 PM is completely different than a random number generator for generating a random time, wherein the random time is used to modify the determined time.

Therefore, Applicants submit that Knudson, Yuen and Gordon, taken alone or in combination, fail to teach or suggest the features of claim 2. Specifically, Applicants submit that there is no teaching or suggestion of an information processing apparatus comprising a random number generator for generating a random time, wherein the random time is used to modify the determined time, as recited in claim 2.

Applicants respectfully submit that Ganzer does not provide the disclosure missing from Knudson, Yuen, and Gordon.

Therefore, Applicant respectfully submits that claim 2 is patentable.

The other claims are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the above-identified reasons.

Applicants respectfully request early passage to issue of the present application.

Please charge any additional fees or credit any overpayment by reason of this request to Deposit Account No. 50-0320.

Respectfully submitted,

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